

United States District Court  
Eastern District of California

David Ray Williams,  
Plaintiff,  
vs.  
C. Furguson, et al.,  
Defendants.

No. Civ. S 04-0998 LKK PAN P  
Order

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Plaintiff is a prisoner, without counsel, who claims (1) defendant Furguson violated plaintiff's First Amendment rights by instigating disciplinary proceedings against plaintiff for having a beard in violation of grooming standards; (2) defendant Young violated plaintiff's rights by finding plaintiff guilty of violating the grooming standards; and (3) defendant Fish violated plaintiff's rights when plaintiff refused extra duties imposed to sanction plaintiff for violating the grooming standards. Plaintiff asserts defendants' objections to his request for

1 production of documents should be waived because they failed  
2 timely to respond and, alternatively, plaintiff moves pursuant to  
3 Fed. R. Civ. P. 37(a)(2)(B), to compel defendants to respond to  
4 requests for production of documents.

5 Parties may obtain discovery regarding any matter, not  
6 privileged, that is relevant to the claim or defense of any  
7 party. Fed. R. Civ. P. 26(b)(1). Information sought need not be  
8 admissible at trial if the discovery is reasonably calculated to  
9 lead to the discovery of admissible evidence. Id. The court may  
10 limit discovery if it determines the discovery sought is  
11 unreasonably cumulative or obtainable from a more convenient or  
12 less expensive source, the party seeking discovery had ample  
13 opportunity to obtain the information sought, or the burden or  
14 expense of the proposed discovery outweighs its likely benefit.  
15 Fed. R. Civ. P. 26(b)(2). A party has a continuing duty to  
16 supplement, correct or amend discovery responses if the court so  
17 orders or if the party learns the responses were in some material  
18 respect incorrect or incomplete and the information has not  
19 otherwise been made available to other parties. Fed. R. Civ. P.  
20 26(e)(2).

21 Any party may request any other party produce for inspection  
22 documents including writings, drawings, graphs, charts or data  
23 compilations. Fed. R. Civ. P. 34(a). The requesting party must  
24 identify the items to be produced and the party upon whom the  
25 request is made must make a written response stating that  
26 inspection will be permitted as requested, unless the party

1 objects and states the basis therefor. Fed. R. Civ. P. 34(b).  
2 Unless the court orders, or the parties stipulate to, a longer  
3 time responses must be served within 30 days. The discovery  
4 order gives the parties 45 days to respond to discovery requests.

5 A party may move for an order compelling discovery with  
6 respect to objections or other failure to respond to  
7 interrogatories or requests to produce documents. Fed. R. Civ.  
8 P. 37(a)(2)(B), 33(b)(5), 34(b).

9 Plaintiff mailed his request for production of documents May  
10 24, 2005, and so defendants were required to serve their response  
11 by July 11. See Fed. R. Civ. P. 6(e) (three days shall be added  
12 to the time for a party to act when service of a paper on the  
13 party is by mail). Defendants served their responses July 11,  
14 2005, and so timely responded.

15 Plaintiff requests "any and all grievances, complaints or  
16 other documents received by defendants or their agents, at C.S.P.  
17 Solano State Prison, mistreatment of inmates by C. Furguson, K.  
18 Young, S. Fish and any memoranda investigative files, or other  
19 documents since January 1, 1995." Defendants object the request  
20 seeks documents outside the scope of discovery.

21 The objection is sustained upon the ground plaintiff has not  
22 shown how the information sought will assist in resolving  
23 material factual disputes.

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So ordered.

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/s/ Peter A. Nowinski

Magistrate Judge